

106TH CONGRESS
2D SESSION

S. 2975

To limit the administrative expenses and profits of managed care entities
to not more than 15 percent of premium revenues.

IN THE SENATE OF THE UNITED STATES

JULY 27, 2000

Mrs. FEINSTEIN introduced the following bill; which was read twice and
referred to the Committee on Finance

A BILL

To limit the administrative expenses and profits of managed
care entities to not more than 15 percent of premium
revenues.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Managed Care Integ-

5 rity Act of 2000”.

6 **SEC. 2. LIMITATION OF ADMINISTRATIVE EXPENSES AND**
7 **PROFITS OF MANAGED CARE ENTITIES.**

8 (a) APPLICATION TO MANAGED CARE ENTITIES.—

9 (1) IN GENERAL.—Notwithstanding any other
10 provision of law, each health benefits plan offered by

1 a managed care entity shall ensure that, with re-
 2 spect to a contract year, the actuarial value of the
 3 aggregate benefits provided under the plan during
 4 such year to enrollees is not less than 85 percent of
 5 the aggregate amount of payments received from, or
 6 on behalf of, such enrollees for such year.

7 (2) WAIVER OF REQUIREMENTS.—

8 (A) IN GENERAL.—The Secretary of
 9 Health and Human Services may waive the re-
 10 quirement of paragraph (1) for a 12-month pe-
 11 riod with respect to a waive the requirement of
 12 paragraph (1) for a 12-month period with re-
 13 spect to a managed care entity if the Secretary
 14 determines, based on the recommendations of
 15 the agency responsible for licensing such entity
 16 (or the health care plans of such entity) in a
 17 State, that—

18 (i) the solvency of the entity is in
 19 jeopardy; or

20 (ii) compliance with the requirement
 21 would cause the entity to fail to meet the
 22 solvency requirements required for licen-
 23 sure in the State.

24 (B) RENEWALS.—The Secretary of Health
 25 and Human Services may renew a waiver under

1 subparagraph (A), except that the no waiver
2 may granted for a period in excess of 24
3 months in any 36-month period.

4 (3) ADMINISTRATIVE COSTS.—

5 (A) LIMITATION.—For purposes of this
6 subsection, the costs associated with the man-
7 agement and operation of a managed care plan
8 (including the costs of compensation and per-
9 sonnel fringe benefits, interest expenses, costs
10 of occupancy of a facility, and marketing costs)
11 shall not be included in determining the actu-
12 arial value of the aggregate benefits provided
13 under the plan.

14 (B) REGULATIONS.—The Secretary of
15 Health and Human Services shall promulgate
16 regulations to define “costs associated with the
17 management and operation of a manages care
18 plan” for purposes of subparagraph (A).

19 (4) DEFINITION.—For purposes of this sub-
20 section, the term “managed care entity” shall
21 include—

22 (A) managed care entities providing health
23 care coverage for individuals under a group
24 health plan or individual health insurance cov-
25 erage;

1 (B) medicaid managed care organizations
2 as defined in section 1903(m)(1)(A);

3 (C) managed care entities that provide
4 health care coverage for individuals under the
5 Federal Employees Health Benefits Program
6 under chapter 89 of title 5, United States Code;
7 and

8 (D) managed care entities that provide
9 health care coverage for members of the armed
10 forces and their families under chapter 55 of
11 title 10, United States Code.

12 (5) EFFECTIVE DATE.—Paragraph (1) shall
13 apply to contract years beginning on or after Janu-
14 ary 1, 2001.

15 (6) ENFORCEMENT.—The Secretary of Health
16 and Human Services shall develop formal investiga-
17 tion and compliance procedures with respect to com-
18 plaints received by the Secretary concerning the fail-
19 ure of a health benefits plan to comply with the pro-
20 visions of this subsection. Under such procedures—

21 (A) the Secretary shall provide the plan
22 with the reasonable opportunity to develop and
23 implement a corrective action plan to correct
24 the deficiencies that were the basis of the com-
25 plaint received by the Secretary; and

1 (B) the Secretary shall provide the plan
 2 with reasonable notice and opportunity for
 3 hearing (including the right to appeal an initial
 4 decision) prior to applying the sanctions de-
 5 scribed in subsection (c).

6 (b) MEDICARE+CHOICE ORGANIZATIONS.—

7 (1) IN GENERAL.—Section 1852 of the Social
 8 Security Act (42 U.S.C. 1395w–25) is amended by
 9 adding at the end the following new subsection:

10 “(1) REQUIREMENT RELATING TO THE PROVISION OF
 11 BENEFITS.—

12 “(1) IN GENERAL.—Each Medicare+Choice
 13 plan offered by a Medicare+Choice organization
 14 shall ensure that, with respect to a contract year,
 15 the actuarial value of the aggregate benefits pro-
 16 vided under the plan during such year to
 17 Medicare+Choice eligible individuals enrolled in the
 18 plan is not less than 85 percent of the aggregate
 19 amount of payments received from, or on behalf of,
 20 such individuals for such year.

21 “(2) WAIVER OF REQUIREMENT.—

22 “(A) IN GENERAL.—The Secretary may
 23 waive the requirement under paragraph (1) for
 24 a 12-month period with respect to a
 25 Medicare+Choice plan offered by a

1 Medicare+Choice organization, if the Secretary
 2 determines, based, except for an organization
 3 with a waiver under section 1855(a)(2), on the
 4 recommendations of the agency responsible for
 5 licensing such plan in a State, that—

6 “(i) the solvency of the
 7 Medicare+Choice organization is in jeop-
 8 ardy; or

9 “(ii) compliance with the requirement
 10 would cause the Medicare+Choice organi-
 11 zation to fail to meet the solvency require-
 12 ments required for licensure in the State
 13 or under this part.

14 “(B) RENEWALS.—The Secretary may
 15 renew a waiver under subparagraph (A), except
 16 that no waiver may be granted for a period in
 17 excess of 24 months in any 36-month period.

18 “(3) ADMINISTRATIVE COSTS.—

19 “(A) LIMITATION.—For purposes of this
 20 subsection, the costs associated with the man-
 21 agement and operation of a Medicare+Choice
 22 plan (including the costs of compensation and
 23 personnel fringe benefits, interest expenses,
 24 costs of occupancy of a facility, and marketing
 25 costs) shall not be included in determining the

1 actuarial value of the aggregate benefits pro-
2 vided under the plan.

3 “(B) REGULATIONS.—The Secretary of
4 Health and Human Services shall promulgate
5 regulations to define ‘costs associated with the
6 management and operation of a manages care
7 plan’ for purposes of subparagraph (A).

8 “(4) ENFORCEMENT.—The Secretary of Health
9 and Human Services may terminate a contract with
10 a Medicare+Choice organization under section 1857
11 in accordance with formal investigation and compli-
12 ance procedures established by the Secretary under
13 which—

14 “(A) the Secretary provides the organiza-
15 tion with the reasonable opportunity to develop
16 and implement a corrective action plan to cor-
17 rect the deficiencies that were the basis of the
18 Secretary’s determination under this paragraph;
19 and

20 “(B) the Secretary provides the organiza-
21 tion with reasonable notice and opportunity for
22 hearing (including the right to appeal an initial
23 decision) before terminating the contract.”.

1 (2) EFFECTIVE DATE.—The amendment made
2 by paragraph (1) shall apply to contract years begin-
3 ning on or after January 1, 2001.

4 (c) SANCTIONS.—

5 (1) IN GENERAL.—If the Secretary of Health
6 and Human Services determines that a health bene-
7 fits plan or a Medicare+Choice organization fails
8 substantially to comply with the provision of this Act
9 or section 1852(l) of the Social Security Act the Sec-
10 retary may provide, in addition to any other rem-
11 edies authorized by law, for any of the remedies de-
12 scribed in paragraph (2).

13 (2) REMEDIES.—The remedies described in this
14 paragraph are—

15 (A) civil money penalties of not more than
16 \$25,000 for each determination under para-
17 graph (1) or, with respect to such a determina-
18 tion involving misrepresentation or falsifying in-
19 formation, of not more than \$100,000 for each
20 such determination; and

21 (B) with respect to Medicare+Choice
22 organizations—

23 (i) suspension of enrollment of indi-
24 viduals under part C of title XVIII of the
25 Social Security Act after the date the Sec-

1 retary notifies the organization of a deter-
2 mination under paragraph (1) and until
3 the Secretary is satisfied that the basis for
4 such determination has been corrected and
5 is not likely to recur; or

6 (ii) suspension of payment to the or-
7 ganization under such part for individuals
8 enrolled after the date the Secretary noti-
9 fies the organization of a determination
10 under paragraph (1) and until the Sec-
11 retary is satisfied that the basis for such
12 determination has been corrected and is
13 not likely to recur.

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